

**ENVIRONMENTAL ASSESSMENT
FOR
WARM SPRINGS IRRIGATION DISTRICT
PUMP AND IDAHO POWER POWERLINE RIGHTS-OF-WAY**

EA Number: OR-030-01-009

Lease/Serial/Case File Numbers: OR-56526 and OR-56541

BLM Office: Vale District, Malheur Resource Area

Proposed Actions Title/Type: Warm Springs Irrigation District Pump and Idaho Power Electric
Powerline Rights-of-Way

Location of Proposed Actions: lot 2, sec. 4, T. 19 S., R. 43 E.

Applicants: Warm Springs Irrigation District and Idaho Power

Preparation Date: 04-06-2001

I. PURPOSE OF AND NEED FOR THE PROPOSED ACTION

The Warm Springs Irrigation District has submitted a right-of-way application (OR-56541) to place five pumps on the south side of the Malheur River at Vines Hill. The proposed pump site is located within the following described public land (see map Exhibit B):

Willamette Meridian, Oregon
T. 19 S., R. 43 E.,
sec. 4, lot 2.

There are two purposes for placing the pumps at this location. First, the need to construct and remove the dam at the present diversion each year would be eliminated (see map titled Warm Springs Irrigation District Canal). Second, approximately 1.96 miles of the existing Vines Ditch would be abandoned and reclaimed.

Idaho Power has submitted an application for a right-of-way (OR-56526) for a powerline located within lot 2, sec. 4, T. 19 S., R. 43 E., in order to supply the pumps with electrical power.

II. CONFORMANCE WITH LAND USE PLANS

The Northern Malheur Management Framework Plan, approved March 18, 1983, includes the subject public lands. The proposed action conforms with this land use plan as required by the regulations found at 43 CFR 1610.5-3 (a).

The proposed action conforms with Goals 3, 6 and 9 of the Oregon Statewide Planning Goals (1974).

The proposed action also conforms with Quality of Life Goal 5 and Business Development Goal 4, Strategies 1 and 4, of the Malheur County Strategic Plan (1996).

III. RELATIONSHIP TO STATUTES, LAWS AND REGULATIONS

The authority for the issuance of rights-of-way is Title V of the Federal Land Policy and Management Act of 1976 (90 STAT. 2776; 43 U.S.C. 1761).

IV. PROPOSED ACTION AND ALTERNATIVES

A. PROPOSED ACTION-PREFERRED ALTERNATIVE

The Warm Springs Irrigation District has submitted a right-of-way application to place five pumps on the south side of the Malheur River at Vines Hill. The pumps would take water from the Malheur River at this point and fill the Vines Ditch, instead of the water being diverted some two miles upstream at the existing diversion. The pumps would be installed on a concrete pad to be constructed beside a deeply incised gully connecting with the river channel (see maps and site plan). During the irrigation season, a diversion dam just downstream from the pump site would raise the water level to create an embayment where the gully joins the river. A minimal amount of silt removal (<50 cubic yards) would be required initially and as periodic maintenance to ensure that the pool remains at a depth sufficient to allow pumping. All construction would occur on lands that have been disturbed previously.

There are three purposes for placing the pumps at this location. First, the need to construct and remove the dam at the present diversion each year would be eliminated (see map titled Warm Springs Irrigation District Canal).

Second, approximately 1.96 miles of the existing Vines Ditch from the diversion to the proposed pump location would be abandoned and reclaimed; approximately 1,075 feet of that would be on public land.

Third, Warm Springs Irrigation District is required to give to Vale Irrigation District the amount of water over that which would be expected due to natural flows and diversions at a measuring point located about three-fourths of a mile upstream from the proposed pump site. The additional water is considered to be return flows from the application of Vale Irrigation District water to farmland in Harper and Little Valleys. If Warm Springs Irrigation District diverts 20 cubic feet per second (cfs) of water at the present location and loses 5 cfs of the water through leakage from Vines Ditch to the Malheur River, this 5 cfs is considered Vale Irrigation District water and must be paid back. If the diversion point is downstream from the measuring point, any losses

of water from Vines Ditch are not counted as Vale Irrigation District water.

The right-of-way for the irrigation pump site would be 30 feet in width, 40 feet in length and would contain 0.03 acres, more or less.

Idaho Power has submitted an application for a right-of-way to authorize a 7.2 kV overhead powerline to serve the pumps. This powerline would cross approximately 420 feet of public land in two segments and would contain with one guy anchor (see map). The right-of-way for the electric powerline would be 20 feet in width, 420 feet in length and would contain 0.19 acres, more or less.

B. NO ACTION ALTERNATIVE

Under this alternative the application would be denied, and the pumps and powerline would not be placed at the identified locations.

C. OTHER ALTERNATIVES

Other alternatives would include choosing another location to place the pumps.

One alternative site considered by the irrigation district was on private land in lot 1 of sec. 4 to the east of the subject site, but upstream of the existing diversion dam. The choice of this location would require that some 700 feet of pipeline be constructed to connect with Vines Ditch at a cost of \$21,000, or more that 50% of the expected project costs at the proposed site (\$34,000). In addition, the length of this pipeline would substantially reduce the efficiency of the pumps to supply water to the ditch. Construction at this location would probably require alteration of the south bank of the Malheur River.

The proposed site takes advantage of the natural topography (the gully) and its proximity to the existing diversion dam to enable the pumps to be placed at sufficient depth to work properly without having to place additional water diverting structures in the channel of the Malheur River, to construct lengthy pipelines to reach Vines Ditch or to alter the south bank of the river. For this reason, other alternatives will not be considered further.

V. AFFECTED ENVIRONMENT

A general description of the area may be found in the Northern Malheur Management Framework Plan.

The site of the proposed pump location is where the steep canyon of the Malheur River widens into the valley containing the agricultural lands near Vale, Oregon. The site is

located adjacent to the Vines Ditch approximately two miles downstream from its diversion.

Cultural Resources:

Prehistoric

The Native people of the Northern Great Basin practiced their ancestral lifeways into the 19th century and were heirs to an extremely ancient cultural tradition. Their technology was effective and efficient, utilizing many multi-functional, light-weight and expendable tools. Gathering activities are attested to by digging sticks, carrying baskets, and milling stones, and hunting is represented by the atlatl and dart, bow and arrow, stone projectile points, stone knives and scrapers. .

Historic

Cultural resources associated with the historic use of this area are tied to landforms as transportation corridors: wagon roads, historic homesteads, early irrigation project features, early mining activity areas, and remains of stage and telegraph stations. Exploration into this area by white Europeans began in the early 1830's.

During the 1880's, small communities were established near reliable water sources, and during the 1890's, production of both cattle and sheep prospered. A rapid increase in population occurred in the northern part of Malheur County between 1930 and 1950 as a result of the development of the Vale and Owyhee Irrigation projects. The Warm Springs Irrigation District was formed from many smaller irrigation districts in the Malheur River drainage.

Paleontological Resources: The exploration for fossil localities has been limited, and confined to Pliocene, Miocene or Pleistocene age soils. Sediments associated with old lake beds may contain plant, fish or other marine animal remains since they have been located in similar old lake sediments south of Vale.

Native American Concerns: There are no known Native American concerns in this area. There are no known plant gathering or tool stone quarries in this area.

Land Uses: To the east and south of the site, the public land is being cultivated under the authority of a Land Use Permit OR-43435. Lot 2 of sec. 4 is Tract Number SM 002 in the Malheur Assembled Land Exchange, and is intended for conveyance out of United States ownership.

The Vines Ditch and a portion of a diversion dam on the Malheur River are located in lot 2. These structures are operated and maintained by the Warm Springs Irrigation District under the authority of the Act of July 26, 1866 (43 U.S.C. 661).

The proposed sites of the pumps and powerline have been disturbed in the past.

There are no mining claims located on the proposed sites of the pumps or powerline.

Recreation: The project site is located within an area which receives dispersed recreational activities such as hunting and fishing.

Soils: Soils in the area consist of gravelly and silty alluvium. Both the pumps and powerline would be located within the floodplain of the Malheur River.

Vegetation: The natural vegetative community on the hills to the southwest of these sites is dominated by sagebrush; other plant species occurring on the site include grasses and forbs. No special status plant species are known in the area.

The vegetation on the proposed sites of the pumps and powerline consists of native species and weeds. These include the following:

Native Species	
Reed canarygrass	<i>(Phalaris arundinacea)</i>
Stinging nettle	<i>(Urtica dioica)</i>
Cattail	<i>(Typha latifolia)</i>
Goldenrod	<i>(Solidago sp.)</i>
Clematis	<i>(Clematis lingustifolius)</i>
Greasewood	<i>(Sarcobatus vermiculatus)</i>
Wyoming big sage	<i>(Artemesia tridentata)</i>
Common sunflower	<i>(Helianthus annuus)</i>

Invader Species (Weeds)	
Flixweed	<i>(Descurainia sophia)</i>
Lambsquarter	<i>(Chenopodium berlandieri)</i>
Purple mustard	<i>(Chorispora tenella)</i>
Kochia	<i>(Kochia scoparia)</i>
Whitetop	<i>(Cardaria draba)</i>
Perennial pepperweed	<i>(Lepidium latifolium)</i>
Cheatgrass	<i>(Bromis tectorum)</i>
Curly dock	<i>(Rumex crispus)</i>
Scotch thistle	<i>(Onopordum acanthium)</i>
Common mullein	<i>(Verbascum thapsus)</i>
Bur buttercup	<i>(Ranunculus testiculatus)</i>

Visual Resources: The project area is within a VRM Class III area. Overall, the visual quality of the area to the east and south of the proposed site is moderately low. The scenic Malheur River canyon is located just west of the proposed site.

Water Resources: The proposed site is located adjacent to the Malheur River, a major regional drainage and a significant local tributary to the Snake River, some twenty-five miles due west.

Wetlands/Riparian Zones: The Malheur River supports a riparian zone along its banks with mostly herbaceous riparian vegetation at the proposed site.

Wildlife: The area provides habitat for wildlife typical of Great Basin areas. Surveys conducted in 1998 documented use by mule deer, coyote, brewers sparrow, meadow lark, brown-headed cowbird, and sage sparrow. The location of the project area, adjacent to permanent water in The Malheur River, probably resulted in heavy historic livestock grazing. Increased human activities probably reduced the amount of native plants upon which wildlife depends.

Fisheries: This section of the Malheur River provides habitat for warm water species such as catfish and carp. The limiting factors for this fishery are reduced winter flows, high water temperatures in summer and irrigation return flows contributing salts and chemicals.

VI. ENVIRONMENTAL IMPACTS

A. IMPACTS OF THE PROPOSED ACTION

Impacts to resources considered critical are summarized in the table below.
Discussion concerning those resources affected may be found in the appropriate section following the table.

Critical Element	Affected		Critical Element	Affected	
	Yes	No		Yes	No
Air Quality		X	Native American Religious Concerns		X
ACECs		X	T & E Species		X
Cultural Resources		X	Wastes, Hazardous/Solid		X
Environmental Justice		X	Water Quality (Surface & Groundwater)	X	
Farmlands, Prime/Unique		X	Wetlands/Riparian Zones	X	
Invasive, Nonnative Species	X		Wilderness		X

Cultural Resources: There would be no adverse effects resulting from the implementation of the proposed action on cultural resources if the Standard Stipulations (attached) are adhered to.

Paleontological Resources: There would be no adverse effects on paleontological resources if the Standard Stipulations (attached) are adhered to.

Native American Concerns: There would be no adverse effects on native American concerns as a result of the implementation of this action.

Land Uses: Implementation of the proposed action would not conflict with the authorized uses occurring on this tract.

If using the pumps is successful, some two miles of the the Vines Ditch, over 1,000 feet of it on public land , would be abandoned and rehabilitated. The diversion dam at the canal inlet in lot 2, sec. 5, T. 19 S., R. 43 E. would not be constructed each spring and removed each autumn.

Recreation: Implementation of the proposed action would not conflict with the dispersed recreational activities occurring in the area.

Soils: Implementation of the proposed construction activities would result in soil disturbance at the locations of the pump pad, pool and the electric power poles. The

soil in these areas has been disturbed previously.

Vegetation: The natural vegetation community on the hills to the southwest of these sites would not be adversely affected by the implementation of the proposed action.

The vegetation on the proposed sites of the pump pad and powerline poles would be removed. Fresh ground disturbance may facilitate the spread of noxious weeds.

Visual Resources: Implementation of the proposed action would be in keeping with VRM Class III requirements..

Water Resources: Implementation of the proposed action would affect water quality in this section of the Malheur River beneficially. The successful installation and operation of the pumps would make the use of the first two miles of the Vines Ditch unnecessary. The annual construction and removal of the diversion dam at the intake of the Vines Ditch would also become unnecessary. The temporary disruption in the flow of the river and periods of water turbidity associated with the construction and removal of the diversion dam would cease. Water lost from Vines Ditch would not be counted as Vale Irrigation District return flows.

Wetlands/Riparian Zones: Implementation of the proposed action would result in a healthier riparian zone at the Vines Ditch diversion dam, since annual construction and removal of the dam would no longer occur. This dam is located on private land, but the improved riparian habitat would result from an action authorized on public land.

Wildlife: The cessation of the temporary disruption in the flow of the river and periods of water turbidity associated with the construction and removal of the diversion dam would benefit fish and wildlife in the Malheur River downstream of the point of diversion of the Vines Ditch.

Fisheries: During the construction of the proposed pumps, the turbidity of the Malheur River may be increased. No significant effects to the fishery would be expected from the operation of the pumps.

B. IMPACTS OF THE NO ACTION ALTERNATIVE

The choice of this alternative would result in the continued use of the first two miles of the Vines Ditch. The annual construction and removal of the diversion dam at the intake of the Vines Ditch would continue, along with the temporary disruption in the flow of the river and periods of water turbidity associated with the construction and removal of the diversion dam. Any water leaking into the Malheur River from the first 1½ miles of Vines Ditch would continue to be counted as Vale Irrigation District return flows.

No additional vegetation or soil disturbance on the subject public land would occur as a result the choice of this alternative.

VII. MITIGATION MEASURES AND RESIDUAL IMPACTS

The loss of vegetation resulting from the implementation of the proposed action is not considered to be significant. Soil disturbance would be minimized through adherence to the terms and conditions of the right-of-way, including the attached special stipulations. The special stipulations requiring the rehabilitation of the disturbed areas through recontouring and seeding would help to prevent the spread of noxious weeds.

In general, adverse environmental impacts would not be significant. Continuing beneficial impacts to the area of the diversion dam of Vines Ditch and to downstream water quality would occur as a result of the implementation of the proposed action.

VIII. PERSONS/AGENCIES CONSULTED

<u>Name</u>	<u>Position</u>
Bob Alward	Outdoor Recreation Planner
Al Bammann	Wildlife Biologist
Jean Findley	Botanist
Jon Freeman	Realty Specialist/ Team Leader
Richard Martinez	Civil Engineering Technician
Diane Pritchard	Archaeologist
Steve Christensen	Range Management Specialist
Lynne Silva	Weed Specialist
Shaney Rockefeller	Hydrologist
Cynthia Tait	Fisheries Biologist

IX. RECOMMENDATION

It is recommended that Right-of-Way OR-56541 be issued to Warm Springs Irrigation District to authorize the construction, operation, maintenance and termination of an irrigation pump site on public land along the Malheur River as described in the Proposed Action section above. It is further recommended that Right-of-Way OR-56526 be issued to Idaho Power to authorize the construction, operation, maintenance and termination of a 7.2 kV electric powerline to serve this irrigation pump site as described in the Proposed Action section above. Both rights-of-way would be granted pursuant to Title V of the Federal Land Policy and Management Act of 1976 (FLPMA) and would be subject to the Act, applicable regulations contained in 43 CFR 2800 and the special stipulations attached to and made part of the grant. It is further recommended that the rights-of-way be issued for 20 years, subject to renewal, and subject to valid existing rights.

The proposed action is in conformance with the Northern Malheur Management Framework Plan and is consistent with state and local land use plans.

Issuance of these rights-of-way will not conflict with any foreseeable development plans on the subject lands if recommended stipulations are adhered to.

The United States owns the surface and mineral estates of the subject lands.

The subject lands have no known unique values, and there are no pending land use applications other than these.

The issuance of the grants would be consistent with Title V of FLPMA and with the regulations found at 43 CFR 2800.

Preparer: /s/ Jon Freeman Date: April 6, 2001

FINDING OF NO SIGNIFICANT IMPACT

I have reviewed this environmental assessment including the explanation and resolution of any potentially significant environmental impacts. I have determined that the proposed action with the mitigation measures described below will not have any significant impacts on the human environment and that an EIS is not required. I have determined that the proposed project is in conformance with the approved land use plan.

Authorized Official: /s/ Roy L. Masinton Date: April 6, 2001
Field Manager, Malheur Resource Area

DECISION RECORD

It is my decision to implement the project as described in EA OR-030-01-009 with the mitigation measures identified below.

Mitigation measures/Remarks:

Authorized Official: _____ Date: _____
Field Manager, Malheur Resource Area

Exhibit A
March 26, 2001

Special Stipulations
OR-56541

1. The holder shall conduct all activities associated with the construction, maintenance, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
2. The holder shall recontour disturbed areas, or designated sections of the right-of-way, to restore the site to approximately the original contour of the ground as determined by the authorized officer.
3. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

Pursuant to 43 CFR 10.4 (g), the holder of this authorization shall notify the authorized officer of the Bureau of Land Management by telephone, with written confirmation, immediately upon discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4 (c) and (d), the holder shall stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

4. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.
5. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
6. The holder agrees to indemnify the United States against any liability arising from the

release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

7. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
8. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
9. Ninety days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

10. During surface-disturbing construction and maintenance activities, the holder shall ensure that all construction equipment and vehicles are cleaned of all vegetation (stems, leaves seeds and all other vegetative parts) prior to entering public lands in order to minimize the transport and spread of noxious weeds. During surface-disturbing construction and maintenance activities, the holder shall ensure that all construction equipment and vehicles are cleaned of all vegetation (stems, leaves seeds and all other vegetative parts) prior to leaving public lands in areas that are known by the Authorized Officer of the BLM to be infested with noxious weeds.

Exhibit A
March 26, 2001

Special Stipulations
OR-56526

11. The holder shall conduct all activities associated with the construction, maintenance, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
12. The holder shall recontour disturbed areas, or designated sections of the right-of-way, to restore the site to approximately the original contour of the ground as determined by the authorized officer.
13. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

Pursuant to 43 CFR 10.4 (g), the holder of this authorization shall notify the authorized officer of the Bureau of Land Management by telephone, with written confirmation, immediately upon discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4 (c) and (d), the holder shall stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

14. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.
15. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
16. The holder agrees to indemnify the United States against any liability arising from the

release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

17. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
18. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
19. Ninety days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

20. During surface-disturbing construction and maintenance activities, the holder shall ensure that all construction equipment and vehicles are cleaned of all vegetation (stems, leaves seeds and all other vegetative parts) prior to entering public lands in order to minimize the transport and spread of noxious weeds. During surface-disturbing construction and maintenance activities, the holder shall ensure that all construction equipment and vehicles are cleaned of all vegetation (stems, leaves seeds and all other vegetative parts) prior to leaving public lands in areas that are known by the Authorized Officer of the BLM to be infested with noxious weeds.
21. Unless otherwise agreed to by the authorized officer in writing, powerlines shall be constructed in accordance to standards outlined in the latest version of "Suggested Practices for Raptor Protection on Powerlines," Raptor Research Foundation, Inc. The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are "eagle safe." Such proof shall be provided by a raptor expert approved by the authorized officer. The BLM reserves the right to require modifications or additions to all powerline structures placed on this right-of-way, should they be necessary to ensure the safety of large perching birds. Such modifications and/or additions shall be made by the holder without liability or expense to the United States.